EVELYN CHAMBERS AND JERRY CHAMBERS

IBLA 77-164, IBLA 77-182 Decided August 10, 1977

Appeals from separate decision of the New Mexico State Office, Bureau of Land Management (BLM), rejecting simultaneous oil and gas lease offer NM-A 29253, and NM 28612.

Reversed.

1. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Applications: Attorneys in Fact or Agents
   Where an inquiry by the BLM discloses that oil and gas lease applicants imprinted their own facsimile signatures on their drawing entry cards, there can be no question of the application of 43 CFR 3102.6-1(a)(2) since this regulation operates where an agent or attorney in fact affixes the applicant's signature on the applicant's behalf.

2. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Applications: Drawings

   A simultaneously filed oil and gas lease entry card is not to be rejected for the reason that the applicant signed the card and the parcel number was entered thereon subsequently by the applicant's employee, since the applicant, in signing the card, certifies as to all the requirements stated as of the date entered thereon, and agrees to be bound to a lease if the offer is successful.

APPEARANCES: C. M. Peterson, Esq., Poulson, Odell and Peterson, Denver, Colorado, for appellants.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

These are consolidated appeals from separate decisions dated January 27, 1977, of the New Mexico State Office, Bureau of Land Management, rejecting appellants' oil and gas lease offers NM-A 29253 and NM 28612. The offers were made on drawing entry cards for Parcels NM 101 and NM 890, respectively. Jerry Chambers' offer was drawn number three at a public drawing held in the State Office on August 6, 1976. Evelyn Chambers' offer was drawn number one at a drawing held on November 15, 1976. The drawing cards contain appellants' handstamped facsimile signatures.

The State Office required appellants to furnish additional evidence concerning the circumstances under which their signature imprints were made and the offers formulated. In response, appellants filed a statement indicating that they had imprinted their facsimile signatures on the cards before the offers were formulated. Evelyn Chambers also filed a letter explaining the couple's business operations, as follows:

> Jerry Chambers, Oil Producer is an oil exploration business, jointly owned by my husband and me. The company is not incorporated. Mr. Chambers and I are located in Chicago, Illinois, while the general exploration offices are in Denver, Colorado under the direction of George Anderson. There are a total of twelve employees working in our Denver office.
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> Each month our Denver office reviews the BLM offerings and decides which ones shall be drawn in my name. Due to the time factors involved in transmitting information between the two offices, I handstamp the facsimile signature on offers to lease in advance, to be held at Denver until the time of submission to the BLM.
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> I do not believe any objection can be made to this system since all of these matters take place within a closed entity, which is the operation of Jerry Chambers, Oil Producer. The business, Jerry Chambers, Oil Producer, does not own federal oil and gas leases. These are acquired and owned by my husband or myself in our individual capacity and with our separate funds. Our employees provide the technical geologic, drilling, engineering and record-keeping services necessary to evaluate and develop our individual lease holdings.
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In its decisions the State Office determined that appellants had delegated to their employee, George Anderson, the discretionary authority to formulate offers in their names and that in so doing they had created an agent or attorney in fact relationship requiring compliance with 43 CFR section 3102.6-1. 1/ Accordingly, the State Office rejected the offers because the cards were signed before the land descriptions were entered thereon and for lack of compliance with 43 CFR 3102.6-1.

In their statement of reasons appellants invite comparison between the regulation in effect prior to February 15, 1964 (43 CFR 192.42(e)(4)), and 43 CFR 3102.6-1(a)(2) (note 1, supra) now in effect. The former regulation provided in part as follows:

> If the offer is signed by an attorney in fact or agent, or if any attorney in fact or agent has been authorized to act on behalf of the offeror with respect to the offer or lease, separate statements over the signatures of the attorney in fact or agent and the offeror stating whether or not there is any agreement or understanding between them * * * [must be submitted].

Appellants point out that the language "or if any attorney in fact or agent has been authorized to act on behalf of the offeror with respect to the offer or lease" was omitted from the new regulation. They contend that the sole-party-in-interest statement operates in circumstances such as these, where an offeror's employee has selected the parcel, entered it on the card, and filed the offer on behalf of the offeror. Appellants contend further that the statements they filed reflect the sole-party-in-interest status of each offeror. Finally, appellants note that the phrase "formulation of the offer" is not used in the regulations which only provide that the entry card be "signed and fully executed by the applicant or his duly

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1/ 43 CFR 3102.6-1(a)(2) provides in pertinent part:

"If the offer is signed by an attorney in fact or agent, it shall be accompanied by separate statements over the signatures of the attorney in fact or agent and the offeror stating whether or not there is any agreement or understanding between them or with any other person, either oral or written, by which the attorney in fact or agent or such other person has received or is to receive any interest in the lease when issued including royalty interest or interest in any operating agreement under the lease, giving full details of the agreement or understanding if it is a verbal one. The statement must be accompanied by a copy of any such written agreement or understanding."

authorized agent in his behalf." 2/ Appellants' position is essentially that the phrase "signed and fully executed" does not require, and should not be interpreted to require, that the description of the lands applied for be entered on the card before the signature is made. Appellants submit that they were the first qualified applicants and that therefore the leases must issue to them. 3/

[1] The issue is whether an offeror is disqualified from receiving an oil and gas lease under the circumstances of this case. Those circumstances, briefly recounted, are: appellants handstamped their facsimile signatures on their cards at their Chicago address; the cards were sent to their Denver office, where their employee, having reviewed BLM listings, entered the parcel numbers on the cards; the cards were then submitted to the BLM for filing. The crucial fact is that appellants, not attorneys in fact or agents, each imprinted his or her own signature on the card. For this reason 43 CFR 3102.6-1(a)(2) does not apply, since this regulation is by its terms triggered only where an attorney in fact or agent imprints the applicant's signature. Therefore it was not necessary to file statements pursuant to this section.

[2] In imprinting their signatures on the cards appellants certify as to their qualifications to hold oil and gas leases under the law, that no other entry cards are filed for the parcels involved, that each is the sole party in interest with respect to the parcel applied for, or if not, that the names of other parties were listed below and that they agree to be bound to leases on the appropriate form. See Evelyn Chambers, 27 IBLA 317 (1976). These certifications are made as of the date entered on the card. Cissie A. Reinauer, 29 IBLA 295 (1977); John R. Mimick, 25 IBLA 107 (1976). Neither the card nor the regulations set forth requirements that the applicant certify knowledge as to the parcel applied for, or that the parcel number be entered on the card prior to signature. We conclude that appellants' signing of the drawing cards before the parcel numbers were entered thereon does not, in and of itself, disqualify them from receiving the leases. The record does not

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2/ 43 CFR 3112.2-1(a) provides:

"Entry Card. Offers to lease such designated leasing units by parcel numbers must be submitted on a form approved by the Director, 'Simultaneous Oil and Gas Entry Card' signed and fully executed by the applicant or his duly authorized agent in his behalf. The entry card will constitute the applicant's offer to lease the numbered leasing unit by participating in the drawing to determine the successful drawee."

3/ Appellants also request that they be permitted to present oral arguments.

disclose that the employee, Mr. Anderson, had any interest in the leases, and appellants in signing the card, certified that they were the sole parties in interest. Accordingly, all else being regular, we direct the BLM to issue the leases in question to appellants. In view of our disposition herein, there is no need to rule on appellants' request for oral argument.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions of the New Mexico State Office are reversed and the appeals are remanded for further action consistent with this opinion.

Anne Poindexter Lewis
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Joan B. Thompson
Administrative Judge